

The 11th January, 1983

No. 9(1)82-6Lab/12748.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Frick India Ltd., Mathura Road, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 264/1979

Between

SHRI BABU LAL, WORKMAN AND THE MANAGEMENT OF M/S FRICK INDIA LIMITED,
MATHURA ROAD, FARIDABAD

Present—

Shri Mohit Kumar, for the workman.

Shri A. S. Chadha, for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Babu Lal and the management of M/s Frick India Limited, Mathura Road, Faridabad, by order No. FD/131/79/36070, dated 21st August, 1979, to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the dismissal of Shri Babu Lal was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the parties, the following issues were framed by my learned predecessor on 24th April, 1980:—

- (1) Whether the enquiry held by the management was proper and justified? If so, to what effect?
- (2) Whether the dismissal of the workman is legal, proper and justified? If so, to what effect?
- (3) Relief.

Issue No. 1

Was treated as preliminary and therefore, the evidence was recorded on this issue. It was decided in favour of the management by order dated 24th November, 1981. The parties were called to lead their evidence on other issues.

Issue No. 2 and 3

On these issues, the management examined Shri S. Srinivasan, Law Officer, as MW-2. The workman examined himself as his own witness. Arguments were heard.

MW-2 deposed that he was acquainted with the evidence of the present case. Order of dismissal Ex. M-10 was passed under Standing orders because charges were of serious nature. In cross-examination, he stated that he joined this company in July, 1980, whereas the dismissal order was passed in June, 1979. No show cause notice was issued to him prior to the dismissal. In the company, there was no union of workers.

WW-1 deposed that he received charge-sheet dated 11th April, 1978, which he replied,—vide Ex. W-24. There was union of workers at the time of charge-sheet and he was member of the executive committee. He was not supplied copy of the finding of the enquiry. He was not issued any show cause notice. In cross-examination, he replied that he did not mention in the demand notice about non-supply of finding. He denied the suggestion on that his service was terminated due to organising strike in the factory and he was involved in creating violence and indiscipline in the factory.

In argument, the learned representative for the workman argued that the charges were vague. No specific facts were given in the charge-sheet. He also referred to finding of the enquiry officer and argued that there was no clear cut finding of the enquiry officer against the workman.

I have gone through the charge-sheet Ex. M-4. The workman was charge-sheeted on three counts. The enquiry officer in his finding Ex. M-3 found the workman guilty on charges No. 2 and 3. The charges pertained to persuading other workers by threats and intimidation and to resort to go slow and tool down in the factory and flouting the orders of his superiors. Although part of the charge-sheet which related to disobedience of the order of the Factory Manager was not proved to be correct by the enquiry officer. The above two charges are defined in clause 24 (a) and (b) of the Certified standing orders as acts of misconduct. The punishment for misconduct was provided in clause 26 (a) of the standing orders. Charges were of serious nature which reflect upon the production and discipline in the factory. I do not find any reason to interfere in the punishment inflicted upon the workman by the management. Therefore, I find the order of dismissal was justified. I pass my award accordingly.

Dated the 7th December, 1982.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 1259, dated the 10th December, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/12825.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Market Committee, Rewari.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD

Reference No. 97 of 1982

between

SHRI DALEL SINGH, WORKMAN AND THE RESPONDENT MANAGEMENT OF
M/S MARKET COMMITTEE, REWARI

Present—

Workman with Shri Mahabir Tiwari.

None for the respondent management.

AWARD.

This reference No. 97 of 1982 has been referred to this Court by the Hon'ble Governor of Haryana, — vide his order No. ID/GGN/7/82/21685, dated 12th May, 1982, under section 10(b)(c) of the Industrial Disputes Act, 1947, for adjudication of the dispute existing between Shri Dalel Singh, workman and the respondent management of M/s Market Committee, Rewari. The term of the reference was :—

Whether the termination of service of Shri Dalel Singh was justified and in order? If not, to what relief is he entitled?

On receipt of reference order, notices were issued to the parties. The parties appeared and filed their pleadings and issue was framed on 20th September, 1982. But on 25th October, 1982, none appeared from the side of the respondent, representative of the workman was present. In these circumstances I proceeded *ex parte* against the respondent and fixed the case for *ex parte* evidence of the workman.

On 5th November, 1982, *ex parte* evidence of the workman was recorded. The workman appeared as his own witness as WW-1, who stated before this court that he was appointed on 24th

April, 1979, as Peon-cum-Chowkidar. The photostat copy of appointment letter is Ex. W-1. The respondent made his services regular through a resolution Ex. W-2 and made confirmed through Ex. W-3. He further stated that on 25th November, 1981, the respondent terminated his services without any reason or serving any notice, the photostat copy of which is Ex. W-4. He further stated that he was drawing Rs 392 per month at the time of termination. He did not give any chance to the respondent for any complaint against him. He further stated that he was unemployed from the date of his termination and prayed that he be reinstated with full back wages and continuity of service.

In view of un rebutted *ex parte* statement of the workman, I am left with no choice except to believe the statement of the workman. The workman was working from 24th April, 1979 and terminated on 25th November, 1981 and he worked for more than 240 days and acquire the status of a permanent workman. The respondent should not terminate the services of the workman, in the way they have terminated. So I hold that the termination of services of the workman is not proper and in order and the workman is entitled for his reinstatement with full back wages and continuity of service.

This be read in answer to this reference.

Dated the 9th December, 1982.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana; Faridabad.

Endorsement No. 2655, dated the 20th December, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.

No. 9(1)82-6Lab./12900.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s (i) Secretary to Government, Haryana, Transport Department, Chandigarh; (ii) General Manager, Haryana Roadways, Ambala.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 120/1981.

between

SHRI PRITHVI RAJ, WORKMAN AND THE MANAGEMENT OF M/S (i) SECRETARY TO GOVERNMENT, HARYANA, TRANSPORT DEPARTMENT, CHANDIGARH, (ii) GENERAL MANAGER, HARYANA ROADWAYS, AMBALA

Present—

Shri U. Kant, for the workman.

Shri P. K. Sachdeva, for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Prithvi Raj, and the management of M/s (i) Secretary to Government, Haryana, Transport Department, Chandigarh; (ii) General Manager, Haryana Roadways, Ambala; by order No. ID/AMB/12/1981/21477, dated 23rd April, 1981, to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Prithvi Raj was justified, and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the issue under reference was put for trial by my order dated 18th August, 1981. The management examined Shri Bhisham Dev Singh, Clerk, as MW-1 and the workman examined himself as his own witness.

MW-1 deposed that the workman was appointed as driver on *ad hoc* basis from 17th August, 1976. His service was extended on 17th January, 1977 up to 30th June, 1977. It was again extended on 4th November, 1977 up to 31st December, 1977. It was further extended up to 30th June, 1978,—*vide* Ex. M-1. His service was terminated,—*vide* Ex. M-2. In cross-examination, he admitted that there was no break in the service of the workman. He was not paid any retrenchment compensation. He further replied that there was no rule to regularise service of the workman on completion of 240 days. He also admitted that some workers junior to him were still in the employment.

The concerned workman deposed that he joined service as driver on 17th August, 1976. His service was extended from time to time up to 3rd June, 1978. His service was terminated on 14th June, 1978. There was no break in his service from 17th August, 1976 to 14th June, 1978. He was not paid any compensation. Some workers junior to him were still in service.

In argument it was submitted by the learned representative for the management that the workman was appointed on purely *ad hoc* basis. Service condition was mentioned in the term of employment. He was a temporary employee. On behalf of the workman, learned representative for the workman argued that the workman had continued service from 17th August, 1976 to 14th June, 1978. His last service was extended up to 30th June, 1978. His service was terminated without any reason. No charge-sheet issued to him.

I have considered the argument and evidence on record. It was an admitted fact that the workman put in more than one year and 9 months continuous service. He was not paid any notice pay or retrenchment compensation under section 25-F of the Industrial Disputes Act, 1947. It was settled law that the workman having 240 days of service at his credit within a period of one year was entitled to one month notice pay or in lieu thereof wages in addition to retrenchment compensation as provided under section 25-F of the Industrial Disputes Act. The law was laid down by their Lordship of the Supreme Court in *Santosh Gupta versus State Bank of Patiala* reported as 1980-1-LLJ page 72 and 1981-1-LLJ page 386. In non-compliance of the provision of section 25-F, the order of termination has become illegal. Natural consequences of which was that the workman remained in service. In view of my above discussion, the workman was entitled to reinstatement with full back wages. In such case, the management may take action by following the provision of section 25-F of the Industrial Disputes Act.

M. C. BHARDWAJ,

Dated the 9th December, 1982.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Encls. No. 1287, dated 17th December, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1) 82-6 Lab/12902.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s The Manager, Kaithal Cooperative Marketing-cum-Processing Society Ltd., Kaithal.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 78/1980.

between

SHRI MOHINDER SINGH, WORKMAN AND THE MANAGEMENT OF M/S THE MANAGER
KAITHAL CO-OPERATIVE MARKETING-CUM-PROCESSING SOCIETY LTD., KAITHAL.

Present:—

Shri M. S. S. Gowshish, for the workman.

Shri U. Kant, for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Mohinder Singh, and the management of M/s The Manager, Kaithal Co-operative Marketing cum Processing Society Ltd., Kaithal, by order No. ID/Amb/136-80/60192, dated 15th December, 1980, to this Tribunal for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Mohinder Singh was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleading of the parties, the issue under reference was put under trial by my order dated 17th March, 1981. Then the case was fixed for the evidence of the management who examined Shri Chandgi Ram, Manager, as MW-1 and the workman examined himself as his own witness. Argument heard.

MW-1 deposed that he was manager in the respondent management from June, 1978 to August, 1979. There was embezzlement against the workman. He was placed under suspension,—vide Ex. M-1. He was given charge-sheet Ex. M-2. Statement of charges was Ex. M-3. Reply of the workman was Ex. M-4. His report was Ex. M-5. Auditors' report was Ex. M-6. Notice Ex. M-7 was served upon the workman. Reply of the workman was Ex. M-8. Another notice was Ex. M-9. was given to the workman which replied by Ex. M-10. Copy of order was Ex. M-12. Report of Assistant Manager was Ex. M-13. Copy of order was Ex. M-14. The workman was reinstated,—vide pending enquiry,—vide Ex. M-15. The workman kept safe proceeding of 49 bags of fertilizers with him which he deposited after one and half months. In cross-examination, he replied that designation of the workman was clerk but he did duty of sales man also. The workman also used to issue cash memo.

MW-1 deposed that he joined service on 18th October, 1975. His services were terminated on 25th February, 1980, without any charge-sheet. No domestic enquiry was held against him. He used to prepare J. Form and voucher on the information of his helper. Payment was made by cashier. He made payments only when the cashier was on leave. He was sales man for two months from 17th October, 1980 to 31st December, 1978. Nearly 1,000 bags of fertilizers were issued in his name and manager deputed 3 persons for sale of fertilizer including Shri Raghunath. Shri Raghunath also used to issue cash memo. At the time of audit it was found that there was a difference of an amount of Rs. 5,409.85. The auditors fixed liabilities on him. In cross-examination he admitted that vouchers Ex. M-1 was in his hand. He admitted having prepared of Ex. M-17. He had written Dalip Singh Kaithal on it and later on he made it Shri Ishwar Singh, s/o Shri Dalip Singh. He had received Ex. M-1 to M-3. He had replied,—vide Ex. M-4. He was never participated in the enquiry. He had received Ex. M-7 which was replied,—vide Ex. M-8. He admitted documents Ex. M-9 to M-12. He denied that he was given opportunity in the enquiry. He also denied that he had forged signature of Shri Ishwar Singh. He had deposited out standing amount when demanded from him although it was not due. He denied that he had himself recovered amount shown in Ex. M-16.

In argument, learned representative of the management pointed out towards various documents placed on file and argued that the workman suspended,—vide charge-sheet and served with notice. He embezzled money of the society and also made overwriting in the record. He deposited embezzlement amount when it was pointed out by the audit. On the other hand, learned representative for the workman argued that no regular domestic enquiry in the presence of the workman was held and he was not given any reasonable opportunity. No show cause notice was given to him.

I have considered the argument and documents on record and find that the workman was charge-sheeted and statement of charges copy Ex. M-3 was served upon him. He replied the same.—vide Ex. M-4. In fact he admitted with the charge but stated it was done under some misconception. He further admitted that amount of the voucher was recovered by the person whom he made payment wrongly. An amount of Rs. 1,162.40 and Rs. 5,200.55 was shown to his credit for 8 months and 17 days. It was recommended that his services be terminated. As regard the domestic enquiry, I find that no regular domestic enquiry was held by the management rather it acted upon the audit report and other reports from the officers of the society. The workman was not given full opportunity to defend himself of the charges. No evidence was recorded by the enquiry officer. Termination of the workman was effected as recommended in audit report Ex. M-6 without following the principles of natural justice. In the circumstance, I set aside the termination order and award reinstatement of the workman. I find that the termination order is bad. Further considering documents placed on file by the management, I award him half back wages only. The management may proceed him according to law if necessary.

M. C. BHARDWAJ,

Dated the 8th December, 1982.

Presiding Officer,
Industrial Tribunal, Haryana,
Fridabad.

Endst. No. 1289, dated the 17th December, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/12904.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Forging Pvt. Ltd., Plant No. 2, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 51/1980

between

THE WORKMEN AND THE MANAGEMENT OF M/S FORGING PRIVATE LIMITED,
PLANT NO. 2, FARIDABAD

Present :

Shri H. R. Dua, for the workmen.

Shri S. S. Sathi, for the management.

AWARD

The Governor of Haryana referred the following dispute between the management of M/s Forging Private Limited, Plant No. 2, Faridabad and its workmen, by order No. ID/1D/65/80/49047, dated 15th September, 1980, to this tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947—

- (1) Whether the workmen are entitled to wages for earned leave forcibly granted by the management from 8th January, 1980 onward? If so, with what details?
- (2) Whether the workmen are entitled to full wages for lay off period with effect from 4th February, 1980? If so, with what details?
- (3) Whether the action of the management detaining the workmen at the gate is justified or not? If not, to what relief the workmen are entitled to?

Notice of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my order dated 8th January, 1981:—

- (1) Whether the demand was properly espoused by the workmen?
- (2) Whether the reference is vague and incapable of adjudication?
- (3) Whether the workmen are entitled to wages for earned leave forcibly granted by the management from 8th January, 1980 onward? If so, with what details?
- (4) Whether the workmen are entitled to full wages for lay-off period with effect from 4th February, 1980? If so, with what details?
- (5) Whether the action of the management detaining the workmen at the gate is justified or not? If not, to what relief the workmen are entitled to?

Issues No. 1 and 2 were treated as preliminary and case was fixed for the evidence of the workmen who examined Shri Ram Nagina Singh, Ex-employee as WW-1. He deposed that he joined service on 1st January, 1978 as grinderman. He submitted the demand notice of his own accord on behalf of all the workers. He was General Secretary of Union. The name of the union was Forging Employees Union. He had called a meeting of workers before the

demand notice. In cross-examination, he replied that he did not remember the date of meeting. The record of the meeting was not with him. Meeting was attended by 100/150 workers. He had not brought the proceeding with him. He had no copy of the notice of the meeting. He had not brought the membership register of the union. The proceeding of the meeting was not recorded in a register. He was not aware if there was constitution of the union. The management summoned constitution of the union and it was stated by the workmen's representative that there was no constitution of the union, therefore, he could not produce any. The management did not lead any other evidence. Later on the management moved an application along with copy of settlement dated 15th January, 1982. It was signed by many workers. According to settlement, workers had received payments from the management in token of settlement of all their claims. It was urged that no dispute may be passed in the present reference. In view of the settlement, I passed no dispute award.

M. C. BHARDWAJ,

Dated the 9th December, 1982.

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Endstt. No. 1291, dated the 17th December, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

The 25th January, 1983

No. 9(1)82-6Lab/486.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947)), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Executive Engineer, Construction Division No. II, H.S.E.B., Gurgaon.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD

Reference No. 394 of 1981

between

SHRI NOOR MOHAMMAD, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S. EXECUTIVE ENGINEER, CONSTRUCTION DIVISION NO. II, H.S.E.B., GURGAON

Shri V. K. Bhardwaj, for the workman.

Shri N. P. Singh, for the respondent.

AWARD

This reference No. 394 of 1981 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/GGN/65/81/61710, dated 28th December, 1981, under section 10 (i)(c) of the Industrial Disputes Act, 1947, existing between Shri Noor Mohammad, workman and the respondent management of M/s. Executive Engineer, Construction Division No. II, H.S.E.B., Gurgaon. The term of the reference was :—

Whether the termination of service of Shri Noor Mohammad was justified and in order? If not, to what relief is he entitled?

Notices were issued to the parties on receiving this reference order. The parties appeared and filed their pleadings. The case of the workman according to demand notice and claim statement is that the claimant was appointed as T-Mate on work-charged basis since 11/79 and worked upto 11th January, 1981 with the Sub-Divisional Officer, Construction Sub-Division No. I, Faridabad and he was wrongly terminated from 12th January, 1981. He was never

appointed as watch and ward on 66 K. V. Sohna-Bhadas Line under construction and never deputed on night duty. There was a theft on 9th and 10th January, 1981 of A.C.S.R. Conductor and police called him for investigation and let off on 20th January, 1981. It was not voluntarily absence and due to the reasons stated above after the release from the police custody he approached the official on 20th January, 1981 but they refused to take him on duty. No criminal case was ever made out against the claimant and the alleged guilt was not proved. No chargesheet was ever given to the claimant and the termination was illegal, wrong and *mala fide*, so the workman is entitled for his reinstatement with back wages and continuity of service.

The case of the respondent according to the written statement is that the reference is bad in law because the workman was never terminated by the respondent and he abandoned his services of his own by absenting himself from duty. He joined the service on 22nd November 1979 on work-charged basis as T-Mate and was not a regular employee of the respondent. The workman was asked to work as watch and ward on 66-K. V. Soha-Bhadas line on 10th June, 1981 night. The claimant instead of performing his duty absent from the duty without intimation to the respondent and after that he never approached the Board to join his duty rather absent himself from the duty. The police has not yet finalised the case of ACSR conductor up till now and the claimant has not been exonerated from the charge. The workman did not turned up to join his duties even after two letters from the respondent. The claimant left the service of his own accord. So he is not entitled to any relief and the reference may be rejected.

On the pleadings of the parties, following issue was framed:—

Whether the termination of service of the workman is proper, justified and in order ?
If not, to what relief is he entitled?

My findings on the issue is as under:—

Issue No. 1 :

The representative of the respondent argued on this issue that as stated by Shri N. D. Sharma, S.D.O., Construction Division as MW-1, the claimant was appointed as workcharged employee on 66 K.V. Bhadas line on 1st October, 1981. The construction work was on and the claimant was appointed to look after the line at night. On 11th January, 1981 the claimant reported to Shri Lal Chand, Lineman that there was theft on the line of ACSR conductor. The lineman reported this matter to Junior Engineer, Shri R. N. Sharma, who came to Faridabad to report the matter to the S. D. O. Shri R. N. Sharma was deputed to verify about the theft and to file a report to the police in the regard. Shri R. N. Sharma filed a report Ex. M-A FIR to the police regarding the matter and the police called the claimant for investigation because he was the watch and ward on the line. After this police investigation the claimant did not turned up to join his duty then a letter Ex. M-1 was issued to the claimant dated 28th February, 1981 asking him join his duties but the workman did not cared for this letter and he did not come to join his duties. Then the witness further stated that he sent another letter Ex. M-2 dated 24th March, 1981 for the explanation about his absence and negligence of his duties by which the theft was taken place but even this letter, the workman did not come to join the duties. Then another letter Ex. M-3 dated 2nd April, 1981 was sent to the workman at his home address. These letters were received by the workman which he has admitted in his cross-examination as WW-1 and after receiving these letters the workman never came to the respondent to join his duties. So it was not the case of the termination and does not fall under the provisions of law for the referenc. He futher argued that the matter is still under investigation by the police and the claimant as being a chowkidar on the date of theft is very much wanted in the case and the theft is made in connivance with the workman. So such persons are not fit for service of the respondent. Moreover the claimant was appointed on workcharged basis as T-Mate which is temporary post and for which no notice was required to remove the workman. But in this case the workman was not removed from service. He himself left the service by absenting himself from duty as he was involved in the case of theft and he has fear of police.

The representative of the workman argued on this issue that as stated by Shri Noor Mohammad as WW-1 he joined the service of the respondent Board in November, 1979 on workcharged basis as T-Mate and his service was regular after working 240 days in a calendar year. He was working on Sohna-Bhadas supply line and he was not appointed as watch and ward on the line. There was theft on the line and after this theft he was called by the police and he remained there for investigation up to 20th January, 1981. After the release from the police station he approached the S. D. O., HSEB for joining the duties but he was not taken on duty and he was asked to report the matter to the Xea, Gurgaon. Then he went to the Xen, Gurgaon but he was refused to take him on duty, stating that he should report the matter to the S. D. O. for duty. In this way he was not allowed to join the duty. He sent so many letters to the respondent which are Ex. W-1 to W-3. The workman's representative further argued that letter Ex. W-1 to W-3 were received by the respondent which are admitted in cross-examination by MW-1 but even after receiving these letters the workman

was not given duty. He further argued that the workman has called Shri Ram Kishan Lineman, Secretary of the Union who has corroborated the story of workman stating that he accompanied that workman to the S. D. O. for the duties of the claimant. S. D. O. sent the workman to the Xen, Gurgaon for further action. The workman was a regular employee and he was illegally terminated by the respondent.

After hearing the arguments of both the parties and going through the file, I am of the view that the respondent has proved his case upto the mark whereas the workman has failed to convince that he was not absented from duty voluntarily. The workman has admitted in his statement as WW-1 that he received the letters from the respondent from Ex.M-1 to M-3 and in spite of these letters he did not turned up to join his duties. In my view it is all due to the police fear because there was a theft case against the workman. He had the fear if he joined the duty he will be involved in the theft case and it will be easy for the department to investigate the matter while the claimant in service, so the workman absented himself of his own and not removed by the respondent. So the issue is decided against the workman and in favour of the respondent and the claimant is not entitled to any relief.

This be read in answer to this reference.

Dated the 1st January, 1983.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endst. No. 57, dated 10th January, 1983

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 16th March, 1983

No. 9(1)82-6Lab./771.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s The Chief Engineering, Thermal Power Project, Haryana State Electricity Board, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 380/1981.

between

SHRI SANT RAM WORKMAN AND THE MANAGEMENT OF M/S THE CHIEF
ENGINEER, THERMAL POWER PROJECT, HARYANA STATE ELECTRICITY BOARD,
FARIDABAD

Present:

Workman in person.

Shri Narinder Paul Singh, for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Sant Ram and the management of M/s The Chief Engineer, Thermal Power Project, Haryana State Electricity Board, Faridabad, by order No. ID/FD/104/81/57151, dated 23rd November, 1982, to this Tribunal for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Sant Ram was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my order dated 7th January, 1983 :—

Whether the termination of service of Shri Sant Ram was justified in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management who examined Shri V. K. Goel, Asstt. Executive Engineer, Hissar as MW-1 and Shri V.K. Gupta, Asstt. Engineer as MW-2. On the last date of hearing, the representative of the management made a statement that the workman had settled his dispute. Terms of settlement was in Ex. M-1. The workman himself also endorsed the above statement.

In view of the above, I pass my award that the matter had been settled by the parties and there remained nothing for adjudication.

Dated the 10th January, 1983.

M.C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 62, dated 17th January, 1983

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1) 82-6Lab/773.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Haryana Roadways, Yamuna Nagar.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 180/1981

between

SHRI BANARSHI DASS, WORKMAN AND THE MANAGEMENT OF M/S HARYANA ROADWAYS, YAMUNA NAGAR

Present:

Shri Rajeshwar Nath, for the workman.

Shri P. K. Sachdeva, for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Banarshi Dass and the management of M/s Haryana Roadways, Yamunanagar by order No. ID/AMB/21/81/29036, dated 9th June, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Banarshi Dass was justified and in order? If so, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 17th December, 1981:—

- (1) Whether no proper notice was served upon the management? If so, to what effect?
- (2) Whether the termination of services of Shri Banarshi Dass was justified and in order? If so, to what relief is he entitled?

In evidence, the management examined Shri Pirthvi Raj, Clerk as MW-1 and the workman examined himself as his witness. Arguments were heard.

MW-1 deposed that the workman was appointed as helper on 24th November, 1979. He worked up to 20th February, 1980 when his service was terminated,—vide Ex. M-1. His appointment letter was Ex. M-2. He further deposed that Yamunanagar Depot came into being on 24th November, 1979. He did know the previous posting of the workman. At the time of termination, no notice pay or retrenchment compensation was given to him.

The concerned workman deposed that he joined service on 1st January, 1977 in Ambala Depot at Narain Garh. At that time, this depot was under Ambala Depot. Later on this depot came under Yamunagar Depot and the workman remained working on his previous post. His service was terminated on 15th September, 1980 without any notice or charge-sheet. He was not paid any compensation either.

In argument it was contended by the management that the workman was appointed on daily wages on the bifurcation of the Ambala Depot. He was appointed as fresh on 24th November, 1979. On the other hand, learned representative for the workman argued that the workman continued in service from 1st January, 1977. His service was terminated on 10th January, 1980 without following Section 25F of the Industrial Disputes Act. It was admitted in the written statement that the concerned workman was appointed on 1st January, 1977 on daily wages and his term of appointment was extended from time to time. Last extension was granted from 24th November, 1979 to 20th February, 1980.

According to the office order placed on file, the workman was appointed from 1st January, 1977 to 31st January, 1977 at the rate of Rs 8 per day, again from 1st February, 1977 to 28th February, 1977 on the same rate, from 1st April, 1977 to 30th April, 1977 at the rate of Rs 225 per month and from 21st May, 1977 also on the same rate. At the time of termination the rate is mentioned Rs. 9 per day and Rs 235 per month and designation was given as helper.

It was an admitted fact that the workman had completed 240 days of service and his period of service was more than one year. Therefore, a simple termination amounted to retrenchment as held by their Lordships in 1981 1LLJ 386. It was incumbent upon the management to follow the proviso laid down in Section 25F of the Industrial Disputes Act:—

"25-F Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice :

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;

- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the official gazette."

It was in the evidence of the parties that the workman was not paid any compensation or given notice, of termination. Therefore, the order of termination was unlawful. The workman was entitled to his reinstatement with full back wages.

Dated, the 10th January, 1983.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endst. No. 82, dated, the 21st January, 1983.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.